

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554**

In the Matter of	)	
	)	
	)	
Telephone Number Portability	)	CC Docket No. 95-116
	)	

**COMMENTS OF  
UNITED STATES CELLULAR CORPORATION**

United States Cellular Corporation ("USCC") hereby files its Comments on the "Petition For Declaratory Ruling" filed by the Cellular Telephone and Internet Association ("CTIA") in the above-captioned proceeding.<sup>1</sup> USCC supports CTIA's petition and urges the FCC once again to clarify where and under what circumstances wireless carriers will be required to port numbers.

**I. The FCC Must Clarify The Porting  
Obligations of LECs Relative to  
Wireless Carriers**

In its careful and detailed Petition, CTIA demonstrates that: (a) it is long overdue that the FCC clarify the porting obligations of local exchange carriers ("LECs") relative to CMRS carriers; and (b) the Commission should require wireline carriers to port numbers to CMRS carriers throughout wireless service areas, and

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<sup>1</sup> USCC provides cellular and PCS Service in 44 MSA, 100 RSA, 1 MTA, and numerous BTA markets nationwide. Accordingly, it has a large stake in any decision made by the FCC affecting wireline and wireless carrier number portability obligations.

not just in "rate centers" in which wireless carriers happen to have a "switch" or other "presence."

At pages 4-11, CTIA provides a detailed description of the repeated requests to the FCC for clarification on the "rate center" issue which have been made by both the wireless industry, and, more importantly, by the North American Numbering Council (NANC). As that discussion and the appendices to the Petition show, it is now clear that owing to the conflicting interests and profound differences of opinion which exist on this issue, only the FCC can resolve it and that it is urgently necessary that the Commission do so.

This demonstration is strengthened by the showing at pp. 12-16 of the Petition which demonstrates that the FCC has often stated that a crucial reason for mandating that local number portability ("LNP") must be provided by wireless carriers is the need to promote wireless/wireline competition. If the FCC fails to act on CTIA's petition it will mean that to the extent such competition is in fact dependent on mutual porting obligations, it will not exist.

## II. "Rate Center Only" Porting is Untenable

As CTIA notes, many LECs, in reliance on Section 52.26 of the FCC's Rules, assert that they will "port" wireline numbers to CMRS carriers only for wireline customers living in "rate centers" in which the CMRS carrier have a "switch" and

from which the CMRS carriers have "drawn numbers" with the same "NXX Code" as the wireline number sought to be "ported."

CTIA is not exaggerating in the slightest when it states that this approach, if implemented nationwide, would "deprive nearly 90% of all wireline consumers of the ability to port numbers to their preferred (wireless) supplier." (Petition p. 18).

USCC's marketing staff, in reviewing one typical wireline Local Access and Transport Area ("LATA"), which overlaps with a USCC service area, determined that the LATA had 196 "rate centers" but that USCC had a "presence" in only 13 of them. That would mean that there could be no wireline to wireless porting in 183 of the rate centers. Not only would this undermine the competitive purposes of the LNP requirement, it would also render it uneconomic for USCC to procure the software necessary to interact with LECs to facilitate the porting process. LEC porting LSOG levels and business rules can differ from carrier to carrier, and only the use of wireline "clearinghouse" software can, in essence, create a common porting standard.

Without such software, USCC would have to "interpret" the divergent requirements of each wireline carrier in order to "manually" process and submit each porting request, a task of enormous complexity, involving considerable expense. Such reliance on manual processes would create insuperable disincentives to the implementation of wireline to wireless porting.

USCC understands the complexity of this issue. It makes no sense and would be contrary to national number conservation policy to require CMRS carriers

to obtain numbers from all LEC rate centers, thus enabling ports to be considered "local" by the LECs. Also, USCC acknowledges that wireline rates are determined by rate center boundaries and that "porting" numbers throughout wireless service areas may raise complex billing issues for LECs. However, neither USCC nor almost any other wireless carrier has asked to have LNP obligations imposed on them. USCC, like most wireless carriers, supported Verizon's request for forbearance. But the FCC did adopt and has reaffirmed the wireless LNP rules and is now obliged to make sense of them. And to require, in essence, that wireless carriers must port to wireline carriers without any corresponding obligation on the part of wireline carriers would be neither sensible nor in compliance with the FCC's stated policy.

### III. The FCC Still Must Clarify The LNP Obligations of Wireless Carriers

As CTIA demonstrates in its Petition, if the FCC does not act to clarify wireline carrier obligations with respect to "rate centers," the wireline to wireless porting obligation will be largely meaningless.

At the same time, the FCC has declared wireless carriers to be subject to ever expanding but ill defined geographic porting obligations, which the Commission has also failed to clarify, despite repeated opportunities.

As USCC has noted in prior Comments in this proceeding, filed May 6, 2002, Section 52.31(a) of the FCC's Rules, requires CMRS carriers to provide number portability in the "top 100 MSAs" identified in the "Appendix" to Part 52 of the

Rules. That top 100 list was adopted in 1997, in connection with wireline LNP. The appendix lists "MSAs" but does not define them by county or other jurisdiction. Nor does it refer to a particular source from the Census Bureau or elsewhere which contains such a definition.

As the years have passed, counties have been dropped from or added to MSAs, and MSAs have moved into or dropped out of the category of "top 100" MSAs owing to different rates of population growth. Cellular "MSAs," for example, whose definitions were fixed in 1982 (based on the 1979 Statistical Abstract of the United States) and 1984, are obviously, in many instances, quite different from the "MSAs" referred to in the Appendix to Part 52, which has and will continue to create difficulties for carriers in complying with "MSA" mandates. Recent FCC actions have added to those difficulties.

In December 2001, the FCC "clarified" that the "top 100" MSAs include those MSAs listed in the Appendix to Part 52 as well as "all areas included on any subsequent top 100 MSA list."<sup>2</sup>

The 1997 MSA list was drawn from the 1990 Census. But subsequent to 1990, several MSAs on the "top 100" list were combined into Consolidated Metropolitan Statistical Areas ("CMSAs"), to which LNP/pooling requirements are also to be applied. Also, the FCC noted that several "new areas and MSAs" are now to be included on the list of the 100 largest MSAs. *Ibid*, at ¶126.

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<sup>2</sup> In the Matter of Numbering Resource Optimization, Implementation of the Local Competition Provisions of the Telecommunications Act of 1996, Telephone Number Portability. Third Order on Reconsideration in CC Docket 99-200, Third Notice of Proposed Rulemaking in Docket 99-200, 17 FCR Rcd. 252 ¶124, (2001), "Third Report and Order")

Also, the FCC refused in the Third Report and Order to "delete any areas" that once had been but no longer were included in the list of "top 100" MSAs.

The FCC, in Appendix D to the Third Report and Order, provided an updated list of the top 100 MSAs, including many CMSAs, though it did not provide a Census Bureau or other source for the list. However, when the 1997 and 2001 MSA lists are compared and then the new list is matched against recent Census Bureau definitions of CMSAs and MSAs, it is clear that the new list enormously expands the former list without any clear notice to wireless or wireline carriers of what will be involved.

Under the 1997 list appended to Part 52, USCC, for example, would provide cellular service in all or part of three of the "top 100" MSAs. However, under the new list, with its many "consolidated" MSAs, USCC provides cellular service in all or part of 18 of the "top 100" MSAs, though often in small parts of them.

Last May, USCC noted that what been needed for the past eight years and what was still needed was a definitive top 100 MSA list, which also listed the affected counties. Only when such a list is issued will CMRS carriers be fairly apprised of what their obligations are.

In July, 2002, the FCC acted to delay by one year, until November 24, 2003, the beginning of the wireless number portability obligation.<sup>3</sup> However, the FCC did not rule on or even mention the issue of how the "top 100" MSAs were defined,

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<sup>3</sup> In the Matter of Verizon Wireless Petition for Partial Forbearance from the Commercial Mobile Radio Services Number Portability, WT Docket No. 01-184, CC Docket 95-116, Memorandum Opinion and Order, 17 FCC Rcd 14972 (2002) ("Verizon Order")

though it referred to the "top 100" MSAs in the context of describing the current system for implementing number portability, based on carrier "requests." Ibid, at ¶31. The Commission also noted it was considering a change in that system in favor of a "universal" LNP requirement in the top 100 MSAs, without respect to "requests." Ibid, ¶31, n.113.

The initial date upon which requests for LNP could be sent to wireless carriers was February 24, 2003. It had been anticipated that the FCC might provide guidance both on the MSA definition issue and on whether the LNP obligation would remain request based between July, 2002 and February, 2003, when the first such "bona fide" requests had to be sent out. However, no guidance has been forthcoming.

Thus CMRS (and other) carriers have had to send out "bona fide requests" for LNP and undergo the expense and difficulty of making their systems LNP capable without knowing basic facts about when the LNP requirements would actually become applicable and the method by which would be implemented. As with the long sequence of pleadings filed by the NANC and CTIA with respect to the "rate center" issue, the Commission has not fulfilled its responsibility to issue timely and clear rules on this subject.

These continuing problems have their origin, we believe, in the FCC's unwillingness to acknowledge in this context that wireless and wireline carriers are different from each other in their origins, operations, service areas and regulatory histories. In order to arrive at reasonable regulations, the needs and structures of

both types of companies have to be taken into account. They have not been in this proceeding.

Conclusion

For the foregoing reasons, the FCC should issue a declaratory ruling that wireline carriers have an obligation to port their customers numbers to wireless carriers throughout wireless service areas and should clarify the definitions of the MSA areas within which wireless carriers must provide number portability and the method by which they must do so.

Respectfully submitted,

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February 26, 2003

WAS1 #1161200 v1